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WEIL, GOTSHAL & MANGES LLP

Stephen Karotkin
(stephen.karotkin@weil.com)Theodore Tsekerides
(theodore.tsekerides@weil.com)Jessica Liou
(jessica.liou@weil.com)Matthew Goren
(matthew.goren@weil.com)767 Fifth Avenue
New York, NY 10153-0119

Tel: 212 310 8000

Fax: 212 310 8007

KELLER BENVENUTTI KIM LLP

Tobias S. Keller (#151445)
(tkeller@kbbkllp.com)Peter J. Benvenutti (#60566)
(pbenvenutti@kbbkllp.com)Jane Kim (#298192)
(jkim@kbbkllp.com)650 California Street, Suite 1900
San Francisco, CA 94108

Tel: 415 496 6723

Fax: 650 636 9251

*Attorneys for the Debtors and Debtors in Possession***UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

In re

MISCELLANEOUS PROCEEDING,
PG&E CORPORATION,

-and-

PACIFIC GAS AND ELECTRIC COMPANY,
Debtors.JH KELLY, LLC, a Washington limited liability
company,

Plaintiff,

v.

AECOM TECHNICAL SERVICES, a purported
California corporation, and DOES 1 through 10,
inclusive,

Defendants.

MP No. 2019-~~00210~~ 00201

Adv. Pro. _____

DC NO: KBK-1

**PACIFIC GAS AND ELECTRIC
COMPANY'S NOTICE OF
REMOVAL OF LAWSUIT PENDING
IN CALIFORNIA SUPERIOR
COURT, SHASTA COUNTY, TO
BANKRUPTCY COURT PURSUANT
TO 28 U.S.C. § 1452 AND FED. R.
BANKR. P. 9027**Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119

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JH KELLY, LLC,

Plaintiff,

v.

PACIFIC GAS & ELECTRIC COMPANY and DOES
1 through 10, inclusive,
Defendants.

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, NY 10153-0119

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1 TO PLAINTIFF JH KELLY, LLC, DEFENDANT/COUNTERCLAIMANT AECOM
2 TECHNICAL SERVICES, INC., AND COUNSEL OF RECORD:

3 I. BACKGROUND

4 1. Plaintiff JH Kelly, LLC (“**JH Kelly**”) was a subcontractor on a private construction
5 project generally known as the “Burney K2 Replacement Project” (the “**Project**”) on property (the
6 “**Property**”) owned by Pacific Gas and Electric Company (the “**Utility**” or “**Debtor**”). Defendant and
7 Counterclaimant AECOM Technical Services, Inc. (“**AECOM**”) was the prime contractor that
8 engaged JH Kelly as a subcontractor. JH Kelly, the Utility, and AECOM are referred to in this Notice
9 collectively, as the “**Parties**,” and each as a “**Party**.”

10 2. On January 25, 2019, JH Kelly filed a *Complaint for Foreclosure of Mechanics Lien*
11 initiating an action in the Shasta County Superior Court (the “**State Court**”) against the Utility, titled
12 *JH Kelly, LLC v. Pac. Gas & Elec. Co.*, Case No. CV-19-0191759 (the “**Foreclosure Action**”). In the
13 Foreclosure Action, JH Kelly alleges that it has not received payment for labor, services, materials, or
14 equipment it provided for the Project, and that it filed and recorded a Claim of Mechanics Lien against
15 the Property on November 1, 2018 (the “**JH Kelly Mechanics Lien**”).

16 3. On January 29, 2019, JH Kelly filed a separate complaint in the State Court initiating an
17 action against AECOM, titled *JH Kelly, LLC v. AECOM Technical Services, Inc.*, Case No. 192600
18 (the “**JH Kelly-AECOM State Action**”), in which JH Kelly asserts various claims in connection with
19 the Project, including breach of contract by AECOM arising from AECOM’s alleged failure to remit
20 payments owed to JH Kelly for work it performed on the Project. AECOM filed a cross-complaint
21 against JH Kelly in the JH Kelly-AECOM State Action, and such defined term is intended to be
22 inclusive of JH Kelly’s complaint and AECOM’s cross-complaint, each of which are currently pending
23 within Case No. 192600, and all answers and affirmative defenses filed therein.

24 4. On January 29, 2019, the Utility and its parent, PG&E Corporation (collectively the
25 “**Debtors**”), filed voluntary Chapter 11 petitions in the United States Bankruptcy Court for the
26 Northern District of California (the “**Northern District Bankruptcy Court**”), in jointly administered
27 cases assigned lead Case No. 19-30088 (the “**Chapter 11 Cases**”).

1 5. On March 1, 2019, AECOM removed the JH Kelly-AECOM State Action to this Court.
2 *See* E.D. Cal. Bankr. Misc. Proc. No. 19-00201, Adv. Proc. No. 19-02035, Dkt. No. 1.

3 6. On March 8, 2019, AECOM filed a stipulation between AECOM and JH Kelly to
4 transfer venue of the removed JH Kelly-AECOM State Action from this Court to the Northern District
5 Bankruptcy Court. *See* E.D. Cal. Bankr. Misc. Proc. No. 19-00201, Adv. Proc. No. 19-02035, Dkt.
6 No. 7. Also on March 8, 2019, this Court issued an order granting that stipulation. *See* E.D. Cal.
7 Bankr., Misc. Proc. No. 19-00201, Adv. Proc. No. 19-02035, Dkt. No. 8.

8 7. On March 14, 2019, the Northern District Bankruptcy Court entered in the Chapter 11
9 Cases a notice of transfer of the removed action. *See* N.D. Cal. Bankr., Case No. 19-30088, Adv. Proc.
10 No. 19-03008 (the “**Adversary Proceeding**”), Dkt. No. 11.

11 8. On March 22, 2019, AECOM filed in the Adversary Proceeding a *Third-Party*
12 *Complaint against Pacific Gas and Electric Company* (the “**Third-Party Complaint**”). *See* N.D. Cal.
13 Bankr., Case No. 19-30088, Adv. Proc. No. 19-03008, Dkt. No. 19. In the Third-Party Complaint,
14 AECOM asserts that the Utility was the cause of the Project delays at issue in the JH-Kelly-AECOM
15 State Action.

16 9. Also on March 22, 2019, AECOM filed in the Northern District Bankruptcy Court a
17 *Notice of Continued Perfection of Lien*, attaching thereto an allegedly duly-recorded mechanic’s lien
18 against the Property that it had filed on January 25, 2019 (the “**AECOM Mechanic’s Lien**”). *See*
19 N.D. Cal. Bankr., Case No. 19-30088, Dkt. No. 1016.

20 10. On June 10, 2019, the Northern District Bankruptcy Court remanded the removed JH
21 Kelly-AECOM State Action to the State Court, but ordered AECOM’s Third-Party Complaint against
22 the Utility severed and retained jurisdiction over it. *See* N.D. Cal. Bankr., Case No. 19-30088, Adv.
23 Proc. No. 19-03008, Dkt. No. 53.

24 11. On October 16, 2019, AECOM filed in the Chapter 11 Cases a proof of claim against
25 the Utility. *See* N.D. Cal. Bankr., Case No. 19-30088, Claim No. 53873 (the “**AECOM POC**”).
26 AECOM asserts in the AECOM POC that the Utility owes AECOM outstanding and unpaid amounts
27 for work it performed on the Project, portions of which are secured and unsecured.

12. On October 21, 2019, JH Kelly filed in the Chapter 11 Cases a proof of claim against the Utility. *See* N.D. Cal. Bankr., Case No. 19-30088, Claim No. 76606 (the “**JH Kelly POC**”). JH Kelly asserts in the JH Kelly POC a secured claim for the full amount of the JH Kelly Mechanics Lien, which JH Kelly seeks to foreclose through the Consolidated Action.

13. On March 20, 2020, the Parties filed in the Chapter 11 Cases a stipulation to modify the automatic stay (the “**Stay Modification Stipulation**”) for the sole purpose of consolidating the JH Kelly-AECOM State Action with the Foreclosure Action, for all purposes, in the State Court. *See* N.D. Cal. Bankr., Case No. 19-30088, Dkt. No. 6409. On March 23, 2020, the Northern District Bankruptcy Court entered an order approving the Stay Modification Stipulation. *See* N.D. Cal. Bankr., Case No. 19-30088, Dkt. No. 6430.

14. On April 2, 2020, the Parties filed in the JH Kelly-AECOM State Action a stipulation to consolidate the Foreclosure Action with the JH Kelly-AECOM State Action (the “**Consolidation Stipulation**”). On May 5, 2020, the State Court entered an order approving the Consolidation Stipulation, consolidating for all purposes the Foreclosure Action with the JH Kelly-AECOM State Action under Case No. 192600 (the “**Consolidated Action**”).

15. The Utility now notices the removal to this Court of the Consolidated Action, and files contemporaneously with this notice a stipulation between the Parties to transfer the Consolidated Action to the Chapter 11 Cases pending in the Northern District Bankruptcy Court.

II. THE NATURE OF THE CONSOLIDATED ACTION AND ITS RELATION TO THE DEBTORS’ CHAPTER 11 CASES

16. The claims in the Consolidated Action involve the same subject matter and the same parties as those involved in the Chapter 11 Cases relating to the AECOM Mechanic’s Lien, the Third-Party Complaint, the AECOM POC, and the JH Kelly POC *See supra* ¶¶ 1-2, 8-9, 14-15.

17. Thus, although the Parties assert distinct causes of action, the Consolidated Action is related to the Chapter 11 Cases and to claims and proceedings pending in those cases.

III. REMOVAL AND NOTICE

18. The Utility hereby removes the Consolidated Action—*JH Kelly, LLC v. Pac. Gas & Elec. Co.*, CV-19-0191759, pending in the State Court—pursuant to 28 U.S.C. § 1452 and Federal Rule of Bankruptcy Procedure 9027(a), and will give notice of such removal to each of the following:

Superior Court of California, County of Shasta:
Redding Main Courthouse
1500 Court Street, Room 319
Redding, CA 96001

Plaintiff:
JH Kelly, LLC
821 3rd Ave.
Longview, WA, 98632

Counsel for JH Kelly, LLC:
Stoel Rives LLP
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Attn: Mario R. Nicholas.

Defendant/Counter-claimant:
AECOM Technical Services, Inc.
300 South Grand Ave.
Los Angeles, CA 90071

Counsel for AECOM Technical Services, Inc.:
REED SMITH LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071-1514
Attn: Marsha Houston

19. The Utility will serve copies of this notice on JH Kelly and AECOM at the addresses set forth above and will promptly file a copy of this notice with the clerk of the State Court, as required by Federal Rule of Bankruptcy Procedure 9027(b) and 9027(d).

20. Pursuant to Federal Rule of Bankruptcy Procedure 9027(a)(1), attached as **Exhibits A, B, C, D, E, F, and G** are true and correct copies of all complaints, cross-complaints, answers and the order granting the Consolidation Stipulation obtained from the State Court's file in the Consolidated Action at the time of this removal.

21. Pursuant to 28 U.S.C. § 1452(a), removal of the Consolidated Action is proper on the grounds that the claims raised in the Consolidated Action are related to a case under title 11 of the United States Code, such that this Court has jurisdiction over the Consolidated Action pursuant to 28 U.S.C. § 1334(b).

22. The Consolidated Action is not a proceeding before the United States Tax Court. Nor is the Consolidated Action a civil action by a government unit to enforce its police or regulatory power.

23. Venue is proper in this Court under 28 U.S.C. § 1452(a), because this Court is the Bankruptcy Court located in the District where the Consolidated Action was formerly located (Shasta County).

24. General Order No. 223, entered by the United States District Court for the Eastern District of California on October 22, 1987, automatically refers this Notice to this Court under Rule 9027 of the Federal Rules of Bankruptcy Procedure and General Order No. 182, and, therefore, it should be filed in this Court.

IV. THE BASIS FOR TRANSFER POST-REMOVAL

25. Contemporaneously herewith, the Debtors will file a stipulation between the Parties to transfer the Consolidated Action to the Chapter 11 Cases pending in the Northern District Bankruptcy Court. For all the reasons stated therein, transfer to the Northern District Bankruptcy Court where the Chapter 11 Cases remain pending is proper.

Dated: May 15, 2020

WEIL, GOTSHAL & MANGES LLP

KELLER BENVENUTTI KIM LLP

By: /s/ Peter J. Benvenutti
Peter J. Benvenutti

Attorneys for the Debtors and Debtors in Possession